

ORDINANCE

AN ORDINANCE TO AMEND ARTICLE IV OF THE FAUQUIER COUNTY ZONING ORDINANCE TO ADD PART 9 ENTITLED “WATERSHED MANAGEMENT AND PROTECTION AREA OVERLAY DISTRICT

WHEREAS, the public water supply system for the County of Fauquier is served by a number of wells and reservoirs providing water to the citizens of Fauquier County; and

WHEREAS, protection of the watersheds which supply the reservoirs water for the public water supply system in Fauquier County is of the utmost importance; and

WHEREAS, as present and public water supplies are identified it is necessary to protect the watersheds supplying reservoirs from contamination; now, therefore, be it

ORDAINED by the Fauquier County Board of Supervisors this ____ day of _____ 2003, That Article 4 of the Fauquier County Zoning Ordinance be, and is hereby, amended to add Part 9 entitled “Watershed Management and Protection Area Overlay District Ordinance” which Ordinance shall read as hereinafter set forth:

ARTICLE 4: OVERLAY DISTRICTS

Part 9

Section 4- _____: WMP - Watershed management and protection area overlay district.

(A) Statement of intent.

In accordance with the objectives of the Comprehensive Plan, the Watershed Management and Protection Area Overlay regulations are intended to ensure the protection of watersheds surrounding current or potential public water supply reservoirs. The establishment of these regulations is intended to prevent the causes of degradation of the water supply reservoir as a result of the operation or the accidental malfunctioning of the use of land or its appurtenances within the drainage area of such water sources.

(B) Applicability.

The special provisions established in this section shall apply to the following areas:

- Such areas as may be determined by ordinance of board of supervisors, through appropriate study of the drainage, groundwater and soils conducted by the Department of Community Development to be essential to protection of such existing or potential reservoirs from the effects of pollution or sedimentation.

- The boundaries of the Reservoir Protection Overlay Zone shall be delineated using the most current and best available location data and must be shown on all master zoning map(s) kept on file. The boundaries should be of sufficient size to guarantee the appropriate level of treatment for stormwater runoff from new and existing projects that can contribute to the contamination of public water supplies. Those zones may be modified as necessary by the board of supervisors as new assessment data becomes available.

(C) Definitions.

For the purposes of this section, the following terms shall have the following meanings:

Bulk storage. Storage equal to or exceeding 660 gallons (2500L) in a single aboveground container.

Development. Any construction, external repair, land disturbing activity, grading, road building, pipe laying, or other activity resulting in a change in the physical character of any parcel or land.

Reservoir. Any impoundment of surface waters designed to provide drinking water to the public.

Tributary stream. Any perennial or intermittent stream, including any lake, pond or other body of water formed therefrom, flowing either directly or indirectly, into any reservoir. Intermittent streams shall be those identified as such on the most recently published United States Geographical Survey Quadrangle Map, or the Soil Conservation Service Soil Survey of Fauquier County, Virginia, or as determined and verified upon field investigation approved by the zoning administrator.

Watershed. Any area lying within the drainage basin of any reservoir.

(D) Use Regulations.

Permitted uses, special permit use, accessory uses, dimensional standards and special requirements shall be as established by the underlying zoning district, unless specifically modified by the requirements set forth herein

The following uses shall be specifically prohibited within the WMP areas:

- (1) Storage or production of hazardous wastes as defined in either or both of the following:
 - (a) Superfund Amendment and Reauthorization Act of 1986; and
 - (b) Identification and Listing of Hazardous Wastes, 40 C.F.R. §261 (1987)
- (2) Disposal of hazardous materials or solid wastes
- (3) Treatment of hazardous material, except rehabilitation programs authorized by a government agency to treat hazardous material present at a site prior to the adoption of this ordinance.

- (4) Dry cleaning, dyeing, printing, photo processing and any other business that stores, uses, or disposes of hazardous material, unless all facilities and equipment are designed and operated to prevent the release or discharge of hazardous materials and have undergone an inspection to certify they are in compliance within hazardous material regulations.
- (5) Disposal of septage or septic sludge
- (6) Automobile service stations
- (7) Junkyards
- (8) Other uses as specified by Fauquier County as potential contaminating activities.
- (9) Land applications of industrial wastes.

(E) Special Requirements.

(1) Except in the case of property proposed for construction of an individual single-family residential dwelling unit, any development proposal, including the subdivision of land, in WMP areas shall be accompanied by an impact study prepared in accordance with the requirements set forth in subsection (F) below.

(2) A two hundred foot (200')[60m] wide buffer strip shall be maintained along the edge of any tributary stream or reservoir. The required setback distance shall be measured from the centerline of such tributary stream and from the mean high water level of such reservoir. Such buffer strip shall be maintained in its natural state or shall be planted with an erosion resistant vegetative cover. In the case of tributary streams located upstream from a stormwater management facility designed to provide water quality protection, no buffer shall be required if such facility has been designed to accommodate and manage the quality of runoff from the subject site.

The zoning administrator may authorize a reduction in the two hundred foot (200')[60m] wide buffer down to an absolute minimum of fifty feet (50')[15m] upon presentation of an impact study, as defined herein, which provides documentation and justification to the satisfaction of the zoning administrator, that even with the reduction, the same or a greater degree of water quality protection would be afforded as would be with the full-width buffer. In granting such authorization, the zoning administrator may require such additional erosion control and runoff control measures as deemed necessary.

Except as provided below, all development shall be located outside of the required buffer strip.

- a. The buffer strip requirement shall not apply to development that is appurtenant to the production, supply, distribution or storage of water by a public water supplier.

- b. Encroachment into or through the required buffer by roads, main-line utilities, or stormwater management structures may be permitted by the zoning administrator provided the following performance standards are met:
 - 1. Road and main-line utility crossings will be limited to the shortest path possible and that which causes the least amount of land disturbance and alteration to the hydrology of the watershed.
 - 2. Stormwater management facilities located within the buffer must be designed to be a part of a watershed stormwater management program.
 - 3. No more land shall be disturbed than is necessary.
 - 4. Indigenous vegetation shall be preserved to the maximum extent possible.
 - 5. Wherever possible, disturbed areas shall be planted with trees and shrubs.
 - 6. The post-development non-point source pollutant loading rate shall be no greater than ninety percent (90%) of the pre-development pollutant loading rate.
 - 7. Non-essential elements of the road or utility project, as determined by the zoning administrator, shall be excluded from the buffer.

c. When the property where an encroachment is proposed is owned by the entity owning and operating the water supply reservoir being protected, and such entity specifically and in writing authorizes and approves the encroachment, it shall be allowed.

(3) In the case of permitted non-residential uses within the WMP areas, performance assurances shall be provided to guarantee that all runoff control and reservoir protection measures proposed in the impact study shall be constructed, operated and maintained so as to meet the performance criteria set forth in the study. The form of agreement and type of letter of credit or other surety shall be approved by the county attorney. The amount of the letter of credit or other surety and designated length of completion time shall be set by the zoning administrator.

(4) The following uses shall not be permitted within the buffer strip required above or within five hundred feet (500')[150m] of the required buffer strip:

- a. septic tanks and drainfields;
- b. feed lots or other livestock impoundments;
- c. trash containers and dumpsters which are not under roof or which are located so that leachate from the receptacle could escape unfiltered and untreated;
- d. fuel storage in excess of fifty (50) gallons [200L];
- e. sanitary landfills;

- f. activities involving the manufacture, bulk storage or any type of distribution of petroleum, chemical or asphalt products or any materials hazardous to a water supply (as defined in the Hazardous Materials Spills Emergency Handbook, American Waterworks Association, 1975, as revised) including specifically the following general classes of materials:
 - 1. oil and oil products;
 - 2. radioactive materials;
 - 3. any material transported in large commercial quantities (such as in 55-gallon [(200L) drums], which is a very soluble acid or base, causes abnormal growth of an organ or organism, or is highly biodegradable, exerting a severe oxygen demand;
 - 4. biologically accumulative poisons;
 - 5. the active ingredients of poisons that are or were ever registered in accordance with the provisions of the Federal Insecticide, Fungicide, and Rodenticide Act, as amended (7 USC 135 et seq.); or
 - 6. substances highly lethal to mammalian or aquatic life.

(F) Impact study.

(1) The impact study shall be performed or reviewed by a registered professional engineer who shall certify that the study has been conducted in accordance with good engineering practices. The study shall address, at a minimum, the following topics:

- a. Description of the proposed project, including location and extent of impervious surfaces; on-site processes or storage of materials; the anticipated use of the land and buildings; description of the site including topographic, hydrologic, and vegetative features.
- b. Characteristics of natural runoff on the site and projected runoff with the proposed project, including its rate, and chemical composition including phosphorus concentration, nitrogen concentration, suspended solids, and other chemical characteristics as deemed necessary by the zoning administrator to make an adequate assessment of water quality.
- c. Measures proposed to be employed to reduce the rate of runoff and pollutant loading of runoff from the project area, both during construction and after.
- d. Proposed runoff control and reservoir protection measures for the project and performance criteria proposed to assure an acceptable level and rate of runoff quality. Such measures shall be consistent with accepted best management practices and shall be designed with the objective of ensuring that the rate of surface water runoff from the site does not exceed pre-development conditions and that the quality of such runoff will not be less than pre-development conditions. Special emphasis shall be placed on the impacts of proposed encroachments into the required buffer.

- e. Proposed methods for complete containment of a spill or leaching of any materials stored on the property that would or could cause contamination of drinking water sources.
- f. Where the developer of property which is subject to the terms of this overlay district desires to utilize existing or planned off-site stormwater quality management facilities, the developer shall provide a written certification to the zoning administrator that the owner of the off-site facilities will accept the runoff and be responsible for its treatment to a level of treatment acceptable to the county and consistent with the requirements of this chapter.

(2) Such study shall be submitted to the zoning administrator for review and approval concurrent with the submission of applications for review and approval of site or subdivision plans or applications for land disturbing or erosion and sediment control permits. A copy of the impact study shall also be forwarded to the agency that owns or manages the subject watershed for review and comments.